

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL FETTERHOFF,

Plaintiff,

Case No. 07-15027

vs.

David M. Lawson
United States District Judge

P.A. KERNEY, et al,

Michael Hluchaniuk
United States Magistrate Judge

Defendants.

ORDER GRANTING DEFENDANTS' MOTION TO COMPEL

In this case, plaintiff seeks money damages for alleged constitutional violations pursuant to 42 U.S.C. § 1983. (Dkt. # 1). Plaintiff claims that defendants were deliberately indifferent to his serious medical need (Hepatitis C infection), causing undue suffering and the worsening of his condition. *Id.*

As part of the discovery process, defendants have asked plaintiff to sign a release for his medical records and his institutional records and filed a motion to compel such signature. (Dkt. # 17). According to defendants, plaintiff signed a release, but expressly limited it to medical records through February 8, 2008 and refused to consent to the release of his institutional file. *Id.* Plaintiff filed a

response to defendants' motion stating that he has no objection to defendants' obtaining access to his "Medical Files" and indicated that he has already signed a release to that effect. (Dkt. # 21).

After reviewing the parties' submissions on the motion and the pleadings on record with the Court, I conclude that plaintiff is obligated to participate in the discovery process and that defendants are entitled to obtain plaintiff's medical records and his institutional file so that they may adequately defend themselves. This is consistent with the broad discovery mandate found in the Federal Rules of Civil Procedure. *See* Fed.R.Civ.P. 26(b)(1) ("Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense...."; "Relevant information need not be admissible at trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.") Defendants' request satisfies this standard. This Court further agrees that plaintiff's selection of an arbitrary "end date" for the release of his medical records is not appropriate under the circumstances. Rather, plaintiff's ongoing treatment for his condition may bear on the issues in this case.

This matter having come before the Court on defendants' Motion to Compel, the parties having filed briefs in support of their respective positions, and the Court being otherwise fully advised in the premises:

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Defendants' Motion to Compel is granted;
2. On or before April 18, 2008, defendants shall provide plaintiff with a disclosure authorization form consistent with this Court's order;
3. On or before May 2, 2008, plaintiff shall provide to defendants a fully executed disclosure authorization form as supplied by defendants; and
4. Plaintiff's failure to comply with this Order may result in the submission of a report and recommendation by the undersigned that this matter be dismissed for failure to cooperate in the discovery process.

IT IS SO ORDERED.

The parties are hereby informed that any objection to this order must be filed with the district court within ten days after being served with a copy thereof, pursuant to Fed.R.Civ.P. 72(a).

Date: April 8, 2008

s/Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: Ronald W. Chapman and Brian J. Richtarcik, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Michael Fetterhoff, ID# 238227,* Pine River Correctional Facility, 326 N. Hubbard, St. Louis, MI 48880.

*The court docket reflects that the plaintiff's prisoner identification number is 238277. However, a check with the Michigan Department of Corrections prisoner tracking system indicates that the plaintiff's proper identification number is 238227.

s/James P. Peltier
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